

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 05 CR 472
)	
PHILLIP KING)	Honorable Sara L. Ellis
)	
Defendant.)	

**DEFENDANT PHILLIP KING’S SUR-REPLY TO THE GOVERNMENTS RESPONSE
OPPOSING COMPASSIONATE RELEASE**

NOW COMES the Defendant, Phillip King, by and through his Attorney Jonathan D. Feldman, and hereby files this sur-reply to the government’s response opposing his motion for compassionate release pursuant to 18. U.S.C. § 3582 (c)(1)(A), and in support states as follows:

1. In yesterdays filing of Defendant’s reply brief, after originally asking this Court and subsequently receiving a one week extension to file his reply, it was noted by the undersigned counsel that it was awaiting additional information from a variety of sources in regards to demonstrating to this Court that Defendant had exhausted his administrative remedies and that asking this Court for compassionate release under the First Step Act was ripe for decision.
2. Today, Defendant’s counselor at FCI Gilmer, Counselor Putnam, was able to speak directly to Defendant and relay that information to the undersigned counsel.
3. Based on the information provided, Defendant originally drafted and served by hand his request to the Warden for compassionate release on May 30, 2020. This request was never responded to.
4. Additionally, it was communicated that Defendant electronically made and submitted an inmate request to staff on or about one month later, either at the end of June or very beginning of July asking for the same relief, which also was never responded to.

5. Based on this information provided by Defendant and communicated by his Counselor today, because a lapse of at least thirty days had occurred without receiving any response from the Warden before Defendant's motion for compassionate release was filed, Defendant asks this Honorable Court to consider the exhaustion of remedies requirement satisfied.
6. It should be noted that in the course of communicating with a variety of sources in pursuit of this information, a CLC senior attorney, Christine Hummert did contact the RIS coordinator at FCI Gilmer and the coordinator communicated he was unable to locate such a request. However that office was unable to provide verification of other legal documents submitted by Defendant recently that could represent the request for compassionate release, and were unable to verify whether the requests to the Warden by Defendant as described above might be categorized or filed differently than what was not located by RIS coordinator at FCI Gilmer.
7. In addition, Defendant's wife has long been aware of such communications to the Warden asking for compassionate release by Defendant, and immediately made counsel aware of such requests on July 20, 2020 when first communicating with counsel regarding representing Defendant in his motion for compassionate release to this Honorable Court.
8. The undersigned counsel does have a pending FOIA Request for all possible documents that remains outstanding.
9. It should also be noted that documents sent by counsel to Defendant at FCI Gilmer, despite being signed for and confirmed as delivered by Fedex on September 11, 2020, never made it into the hands of Defendant as of the filing of this sur-reply.
10. Based on the dates and specifics of what was communicated today by Defendant and described in this sir-reply, and the totality of the circumstances, it is asked that this Court deem the exhaustion of remedies under the First Step Act to have been satisfied and to rule on his motion for Compassionate Release.

WHEREFORE, Defendant, Phillip King respectfully requests this Honorable Court grant his motion for compassionate release under the First Step Act.

/s/Jonathan Feldman
For Phillip King

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CERTIFICATE OF SERVICE

I, Jonathan Feldman, as Attorney for Phillip King, hereby certify that I have served all parties of record by filing **Defendant's Sur-Reply** by filing it electronically on October 21, 2020 via the CM/ECF system.

/s/Jonathan Feldman
Attorney at Law
October 21, 2020